

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOE ALBERT RAUCH,

Plaintiff,

v.

Case No. 21-cv-0309-bhl

PEREZ-GEREN, et al.,

Defendants.

DECISION AND ORDER

Plaintiff Joe Albert Rauch is a prisoner confined at the Waupun Correctional Institution who is representing himself in this 42 U.S.C. §1983 case. On March 10, 2021, along with his complaint, Rauch filed a motion for leave to proceed without prepaying the filing fee. The Prison Litigation Reform Act applies to this case because Rauch was incarcerated when he filed his complaint. That statute allows prisoners to proceed without prepaying the full filing fee if, when funds exist, they pay an initial partial filing fee. 28 U.S.C. §1915. On March 16, 2021, the Court ordered Rauch to pay an initial partial filing fee of \$4.80 by April 15, 2021. Dkt. No. 6. The deadline has passed, and Rauch has neither paid the fee nor explained to the Court why he is unable to do so.

IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** based on Rauch's failure to pay the initial partial filing fee. Because the dismissal is without prejudice, Rauch may refile his complaint at a later date, subject to the relevant statute of limitations. Alternatively, Rauch may file a motion to reopen the case within twenty-one days, explaining why the Court should excuse his failure to timely pay the initial partial filing fee. Rauch must pay the

initial partial filing fee or explain why he is unable to do so before the Court will consider a motion to reopen the case.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. §1915(b)(1), Rauch must pay the \$350 statutory filing fee. Accordingly, the agency having custody of Rauch shall collect from his institution trust account the \$350 statutory filing fee by collecting monthly payments from Rauch's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Rauch is transferred to another institution, the transferring institution shall forward a copy of this Order along with Rauch's remaining balance to the receiving institution.

IT IS FURTHER ORDERED that copies of this order be sent to the officer in charge of the agency where Rauch is located.

Dated at Milwaukee, Wisconsin this 22nd day of April, 2021.

BY THE COURT:

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge